

The House passed this settlement encouragement legislation last Congress, and I am convinced it will prove to be a valuable resource to both parties to Federal litigation and to the courts in promoting quick and fair settlement.

This legislation would also amend rule 702 of the Federal Rules of Evidence, which allows expert witnesses to testify as to their expert opinions with respect to scientific, technical, or other specialized knowledge. Such evidence may have an enormous impact on a jury's decision because of its nature. Accordingly, assuring that such evidence is valid and reliable is of utmost importance. With that in mind, the amendment would make a scientific opinion inadmissible unless it is:

First, scientifically valid and reliable; second, has a valid scientific connection to the fact it is offered to prove; and third, sufficiently reliable so that the probative value of such evidence outweighs the dangers specified in Federal rule of Evidence 403.

The standard for admissibility of scientific expert testimony was most recently addressed by the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993), on remand, No. 90-55397 (9th Cir., Jan. 4, 1995, Kozinski, J.). In that case, the Supreme Court held that rule 702 does not require that scientific evidence have general acceptance in the relevant scientific community to be admissible. Rather, the Court held that the rule requires that expert testimony rest on a reliable foundation; that is, the methodology from which the evidence is derived must be based on scientific knowledge and be relevant to the task at hand; that is, it must assist the trier of fact and have a logical scientific nexus to the subject matter of the suit or other admitted evidence.

This legislation would serve to codify and is meant to complement the standards established in *Daubert* by the Supreme Court. It requires that the methodology from which scientific evidence is derived be based on scientific knowledge and that it have a logical, scientific nexus to the subject matter of the suit or other admitted evidence.

Finally, this bill would make expert testimony inadmissible if the witness is entitled to receive any compensation contingent on the legal disposition of any claim with respect to which such testimony is offered. The reason for this provision is that an expert witness who receives a contingency fee is less likely to furnish reliable testimony than one who receives a flat or hourly fee since he or she has a vested interest in the outcome of the litigation. The provision would exclude evidence if the witness receives any contingency fee, even if such fee is not a percentage of the judgment or settlement, but rather is a flat fee or hourly fee the payment of which is contingent upon the legal disposition of the claim.

This bill will prevent trial lawyers from taking advantage of the court system. If there is a consensus in the scientific community that a hazard or risk—usually of a product—is real or substantial, the trial lawyers will implore that consensus to support complaints for compensatory and punitive damages. If the consensus in the scientific community is that a hazard or risk is trivial or imaginary, however, the same lawyers should not be able to brush that fact aside and find fringe experts to testify otherwise. Even in cases where real hazards exist, trial lawyers will attempt to stretch claims be-

yond validity in order to collect punitive damages. By creating a presumption of inadmissibility, rebutted by the standards created by the Supreme Court in *Daubert*, along with a lower standard of prejudice, an amended rule 702 will be effective in weeding out junk science as evidence in our Federal courtrooms.

These amendments to rule 702 would apply only to civil and not criminal cases. They would most frequently be used in product liability cases. This will prevent frustration in the important use of scientific evidence such as blood-type analysis and DNA testing in criminal proceedings.

Mr. Speaker, the importance of this legislation to our Federal courts cannot be underestimated. Congress must play a key role in affording Federal litigants efficient, quick, and fair adjudication of their claims. This bill will move us firmly in the right direction.

#### TRIBUTE TO THE BLACK BEAUTICIANS HEALTH PROMOTION PROGRAM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. PAYNE. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in applauding a new preventive health program. The University of California at San Diego's [UCSD] Cancer Center has been awarded a \$300,000 grant for the Black Beauticians Health Promotion Program. The program, sponsored by the Bristol-Myers Squibb Foundation, recruits and trains beauticians working in neighborhood beauty salons to educate their clients on the importance of breast cancer screening and other health lifestyles.

In the pilot study conducted by the UCSD Cancer Center, eight African-American beauticians attempted to determine whether beauticians can serve as educators for health information of special concern to their black clients. The study also questioned whether these beauticians would be able to motivate their clients to adopt health promotion behaviors, such as weight control and smoking cessation. The study was a great success.

Many may ask why beauticians were selected as the messenger in an effort to reach this high-risk population. In many cases, beauticians are well integrated members of the community, and a personal relationship has already been established with each client. Furthermore, the beauty salon is an establishment which many women frequent, and is an environment where personal discussions are quite common. In short, many women and men of all races visit their barber or beautician more frequently than they do their own doctor.

Mr. Speaker, as it now stands, African-American women are at high risk for breast cancer and other serious illnesses. In addition, their mortality rates are disproportionately high as compared to other races. The Bristol-Myers Squibb Foundation grant will be used to permit a statistical evaluation of this educational intervention program's potential impact over a longer period of time.

Mr. Speaker, I am happy to bring this grant to the attention to the House, and I am sure

that my colleagues join me in honoring the accomplishments of the University of California at San Diego's Cancer Center, in conjunction with the Bristol-Myers Squibb Foundation.

#### LEGISLATION INCLUDING SAMOA IN THE FEDERAL HOME LOAN BANK ACT

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation to include American Samoa in the Federal Home Loan Bank Act.

For decades there has been inadequate capital available to provide home loans to the qualified residents of American Samoa wishing to make loans to build homes or additions. As Samoa moved toward a credit economy, the mainland financial community had many questions which needed to be answered before they were willing to lend money in Samoa: Would the Samoans pay back their loans? Would the local courts enter judgments against locals in favor of banks? would the chiefs of communal lands permit purchasers of leasehold interests to reside on communal properties?

Each question seemed insurmountable, but over the years we have overcome these hurdles, and today there is only one impediment left—a lack of funding at reasonable rates for home loans. Other rural areas have solved this problem by membership in a Federal home loan bank. In fact, the Federal Home Loan Bank Act makes membership available to banks in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. In enacting the original legislation, remote American Samoa, one of the areas most in need, was again left in the woods.

The legislation I am introducing today makes a technical change to the definitions section to include American Samoa within the definition of a State. This small change will enable the FDIC-insured local banks to join a Federal home loan bank and gain access to a new source of funding to make loans to the residents in American Samoa. I hope my colleagues will join me in making this small change in the law which will have a significant, beneficial impact on American Samoa.

H.R.—

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. AMENDMENT TO DEFINITION OF "STATE".

Section 2(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422(3)) is amended by inserting "American Samoa," after "Puerto Rico,".

#### CONGRATULATIONS TO SHANNON BYRDSO, MISS BLACK ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I would like to congratulate Miss Black Alaska for her